



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 18, 1996

Mr. Dennis C. Gardner
Executive Officer and Staff Counsel
Metropolitan Transit Authority
P.O. Box 61429
Houston, Texas 77208-1429

OR96-0057

Dear Mr. Gardner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37309.

The Metropolitan Transit Authority of Harris County ("Metro") received a request for the "Police Dispatch Call Logs and/or Calls for Service sheets for the days of November 10, 11, 12, 13, and 14, 1995." You have submitted for our review representative samples of "Call for Service" forms and "Communications Logs" generated by Metro's Police Division which you feel are responsive to this request.¹ You believe that this information is excepted from required public disclosure under sections 552.101 and 552.108 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that section 552.101, in conjunction with the recently enacted House Bill 391,² excepts the requested information from required public disclosure.

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413 (Vernon).

In the recent legislative session, the legislature enacted House Bill 391, which places certain restrictions on the general public's access to "all *accident reports* made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h]."³ *Id.* (emphasis added). Specifically, House Bill 391 provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. *Id.* House Bill 391, however, specifically applies only to "accident reports" contemplated by article 6701d, V.T.C.S., or article 6701h, V.T.C.S. House Bill 391 is, therefore, inapplicable to the "Call for Service" forms or "Communications Logs." See Open Records Decision No. 478 (1987) (as a general rule, statutory confidentiality requires express language making particular information confidential). Accordingly, you may not withhold the requested information pursuant to section 552.101 of the Government Code.⁴

You also claim that section 552.108 excepts the "Communications Logs" from required public disclosure because they specifically call for "suspect information." When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. Certain factual information, which is generally found on the front page of police offense reports, is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (listing factual information available to public). In closed cases, the governmental body must demonstrate that release of the information would unduly interfere with law enforcement or prosecution before it can withhold the information under section 552.108. Open Records Decision Nos. 518 (1989), 216 (1978) at 4.

You do not indicate whether any of the incidents listed on the "Communications Logs" are still under active investigation. Nevertheless, it appears that the information would be the same type of information which is generally found on the front page of police offense reports. As for those incidents which are not still under active investigation, you have not demonstrated how release of this information would unduly

³Effective September 1, 1995, these statutes were repealed and replaced as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71 (Vernon). The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.*, § 25, 1995 Tex. Sess. Law Serv. at 1871.

⁴You express concern that the requestor is attempting to "end run" the requirements on access to accident reports mandated by House Bill 391. Please note that section 552.222 of the Government Code prohibits a governmental body from inquiring into the motives of the person applying for inspection or copying of records. See Open Records Decision No. 542 (1990). Consequently, the requestor's motives for obtaining these types of records are not relevant to an analysis as to whether the records are subject to required public disclosure.

interfere with law enforcement or prosecution. Consequently, we conclude that you may not withhold any of the requested information under section 552.108 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Todd Reese". The signature is fluid and cursive, with a long horizontal line extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref.: ID# 37309

Enclosures: Submitted documents

cc: Ms. Adriene Anderson
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(w/o enclosures)